



01-21-04, mag

1644

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

MARRACK et al.

Serial No.: 09/844,928

Filed: April 26, 2001

Atty. File No.: 2879-76

For: "PRODUCT AND PROCESS FOR
REGULATION OF T CELL
RESPONSES"

) Group Art Unit: 1644 ✓
)

) Examiner: Ewoldt, G.
)

) RESPONSE TO SECOND
) RESTRICTION REQUIREMENT
)

) **EXPRESS MAIL: EL975241217US**
)
)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This response is filed in response to the Restriction Requirement having a mailing date of December 19, 2003. This response is believed to be timely and therefore, no fees are enclosed. In the event that fees are due in connection with this response, please debit Deposit Account No. 19-1970.

The Examiner has again restricted the claims of the invention into 23 groups. The claims are essentially divided on two bases: (1) on the basis of reagents that could be used to increase IL-15 activity and reagents that could be used to decrease IL-2 activity; and (2) on the basis of the methods of use of the compositions. In this Restriction Requirement, the Examiner has also stated that, with regard to Groups I-XX, Claim 1 is a linking claim, and that the restriction between Groups I-XX is subject to the non-allowance of Claim 1.

Applicants acknowledge the Examiner's conclusion that Claim 1 is a linking claim. Also acknowledging that Applicants are required to elect a single group for prosecution at this time, Applicants' elect, with traverse, to prosecute the claims of Group II (Claims 1-3, 9 and 14-17), directed to a vaccine adjuvant and a vaccine, wherein the adjuvant comprises IL-15 or an IL-15 homologue and an agent that binds to IL-2 and blocks or prevents the interaction of IL-2 with an IL-2 receptor.

Applicants again traverse the restriction between Groups I-XX and through any of these product groups and the method groups XXI-XXII for the reasons of record as set forth in the response to Restriction Requirement filed August 1, 2003. At a minimum, for the reasons of record, Applicants respectfully request that the Examiner withdraw the restriction between the elements as set forth above and rejoin many of the product groups with Group II or restructure the restriction requirement to more reasonably cover the invention. Applicants' continued traversal of the Restriction Requirement notwithstanding, Applicants appreciate the Examiner's reconsideration of the last response and finding that Claim 1 is a linking claim.

With regard to the method claims of Groups XXI and XXII, if Claim 1, and/or the elected claims of Group II and any rejoined product groups are found allowable, Applicants again reserve their right to amend the claims of Group XXI or XXII to be commensurate in scope with the product claims of Group II, and to request that such amended method that depend from or otherwise include all the limitations of the allowable product be rejoined and examined for patentability. In re Brouwer, 37 USPQ2d 1663 (Fed. Cir. 1996); In re Ochiai, 37 USPQ2d 1127 (Fed. Cir. 1995).

Respectfully submitted,

SHERIDAN ROSS P.C.

By: Angela Dallas Sebor
Angela Dallas Sebor
Registration No. 42,460
1560 Broadway, Suite 1200
Denver, CO 80202-5141
(303) 863-9700

Date: January 19, 2004